

Article 7A.

Hospital Assessment Act.

Part 1. General.

§ 108A-130. (Effective July 1, 2021 – see note) Short title and purpose.

This Article shall be known as the "Hospital Assessment Act." This Article does not authorize a political subdivision of the State to license a hospital for revenue or impose a tax or assessment on a hospital. (2020-88, s. 15.1(b).)

§ 108A-131. (Effective July 1, 2021 – see note) Definitions.

The following definitions apply in this Article:

- (1) Base assessment. – The assessment payable under G.S. 108A-142.
- (2) CMS. – Centers for Medicare and Medicaid Services.
- (3) Critical access hospital. – As defined in 42 C.F.R. § 400.202.
- (4) Department. – The Department of Health and Human Services.
- (5) Prepaid health plan. – As defined in G.S. 108D-1.
- (6) Public hospital. – A hospital that certifies its public expenditures to the Department pursuant to 42 C.F.R. § 433.51(b) during the fiscal year for which the assessment applies.
- (7) Secretary. – The Secretary of Health and Human Services.
- (8) State's annual Medicaid payment. – An annual amount equal to one hundred ten million dollars (\$110,000,000) for the taxable year October 1, 2020, through September 30, 2021, increased each year over the prior year's payment by the percentage specified as the Medicare Market Basket Index less productivity most recently published in the Federal Register.
- (9) Supplemental assessment. – The assessment payable under G.S. 108A-141.
- (10) Total hospital costs. – The costs as calculated using the most recent available Hospital Cost Report Information System's cost report data available through CMS or other comparable data, including both inpatient and outpatient components, for all hospitals that are not exempt from the applicable assessment. (2020-88, s. 15.1(b).)

§ 108A-132. (Effective July 1, 2021 – see note) Due dates and collections.

(a) Assessments under this Article are due quarterly in the time and manner prescribed by the Secretary and shall be considered delinquent if not paid within seven calendar days of this due date.

(b) With respect to any hospital owing a past-due assessment amount under this Article, the Department may withhold the unpaid amount from Medicaid or NC Health Choice payments otherwise due or impose a late payment penalty. The Secretary may waive a penalty for good cause shown.

(c) In the event the data necessary to calculate an assessment under this Article is not available to the Secretary in time to impose the quarterly assessments for a payment year, the Secretary may defer the due date for the assessment to a subsequent quarter. (2020-88, s. 15.1(b).)

§ 108A-133. (Effective July 1, 2021 – see note) Assessment appeals.

A hospital may appeal a determination of the assessment amount owed through a reconsideration review. The pendency of an appeal does not relieve a hospital from its obligation to pay an assessment amount when due. (2020-88, s. 15.1(b).)

§ 108A-134. (Effective July 1, 2021 – see note) Allowable costs; patient billing.

(a) Assessments paid under this Article may be included as allowable costs of a hospital for purposes of any applicable Medicaid reimbursement formula, except that assessments paid under this Article shall be excluded from cost settlement.

(b) Assessments imposed under this Article may not be added as a surtax or assessment on a patient's bill. (2020-88, s. 15.1(b).)

§ 108A-135. (Effective July 1, 2021 – see note) Rule-making authority.

The Secretary may adopt rules to implement this Article. (2020-88, s. 15.1(b).)

§ 108A-136. (Effective July 1, 2021 – see note) Repeal.

If CMS determines that an assessment under this Article is impermissible or revokes approval of an assessment under this Article, then that assessment shall not be imposed and the Department's authority to collect the assessment is repealed. (2020-88, s. 15.1(b).)

§ 108A-137: Reserved for future codification purposes.

§ 108A-138: Reserved for future codification purposes.

§ 108A-139: Reserved for future codification purposes.

Part 2. Supplemental and Base Assessments.

§ 108A-140. (Effective July 1, 2021 – see note) Applicability.

(a) The assessments imposed under this Part apply to all licensed North Carolina hospitals, except as provided in this section.

(b) The following hospitals are exempt from both the supplemental assessment and the base assessment:

- (1) Critical access hospitals.
- (2) Freestanding psychiatric hospitals.
- (3) Freestanding rehabilitation hospitals.
- (4) Long-term care hospitals.
- (5) State-owned and State-operated hospitals.
- (6) The primary affiliated teaching hospital for each University of North Carolina medical school.

(c) Public hospitals are exempt from the supplemental assessment. (2020-88, s. 15.1(b).)

§ 108A-141. (Effective July 1, 2021 – see note) Supplemental assessment.

(a) The supplemental assessment shall be a percentage, established by the General Assembly, of total hospital costs.

(b) The Department shall propose the rate of the supplemental assessment to be imposed under this section when the Department prepares its budget request for each upcoming fiscal year. The Governor shall submit the Department's proposed supplemental assessment rate to the General Assembly each fiscal year.

(c) The Department shall base the proposed supplemental assessment rate on all of the following factors:

(1) The percentage change in aggregate payments to hospitals subject to the supplemental assessment for Medicaid and NC Health Choice enrollees, excluding hospital access payments made under 42 C.F.R. § 438.6, as demonstrated in data from prepaid health plans and the State, as determined by the Department.

(2) Any changes in the federal medical assistance percentage rate applicable to the Medicaid or NC Health Choice programs for the applicable year.

(d) The rate for the supplemental assessment for each taxable year shall be the percentage rate set by law by the General Assembly. (2020-88, s. 15.1(b).)

§ 108A-142. (Effective July 1, 2021 – see note) Base assessment.

(a) The base assessment shall be a percentage, established by the General Assembly, of total hospital costs.

(b) The Department shall propose the rate of the base assessment to be imposed under this section when the Department prepares its budget request for each upcoming fiscal year. The Governor shall submit the Department's proposed base assessment rate to the General Assembly each fiscal year.

(c) The Department shall base the proposed base assessment rate on all of the following factors:

(1) The change in the State's annual Medicaid payment for the applicable year.

(2) The percentage change in aggregate payments to hospitals subject to the base assessment for Medicaid and NC Health Choice enrollees, excluding hospital access payments made under 42 C.F.R. § 438.6, as demonstrated in data from prepaid health plans and the State, as determined by the Department.

(3) Any changes in the federal medical assistance percentage rate applicable to the Medicaid or NC Health Choice programs for the applicable year.

(4) Any changes as determined by the Department in (i) reimbursement under the Medicaid State Plan, (ii) managed care payments authorized under 42 C.F.R. § 438.6 for which the nonfederal share is not funded by General Fund appropriations, and (iii) reimbursement under the NC Health Choice program.

(d) The rate for the base assessment for each taxable year shall be the percentage rate set by law by the General Assembly. (2020-88, s. 15.1(b).)

§ 108A-143. (Effective July 1, 2021 – see note) Payment from other hospitals.

(a) If a hospital that is exempt from both the base and supplemental assessments under this Part (i) makes an intergovernmental transfer to the Department to be used to draw down matching

federal funds and (ii) has acquired, merged, leased, or managed another hospital on or after March 25, 2011, then the exempt hospital shall transfer to the State an additional amount. The additional amount shall be a percentage of the amount of funds that (i) would be transferred to the State through such an intergovernmental transfer and (ii) are to be used to match additional federal funds that the exempt hospital is able to receive because of the acquired, merged, leased, or managed hospital.

(b) Beginning October 1, 2021, the percentage described in subsection (a) of this section shall be calculated by dividing the amount of the State's annual Medicaid payment by the total amount collected under the base assessment under G.S. 108A-142.

(c) For the partial year beginning July 1, 2021, and ending September 30, 2021, the percentage described in subsection (a) of this section shall be calculated by dividing one fourth of the amount of the State's annual Medicaid payment by the amount collected under the base assessment under G.S. 108A-142. (2020-88, s. 15.1(b).)

§ 108A-144. (Effective July 1, 2021 – see note) Use of funds.

The proceeds of the assessments imposed under this Part, and all corresponding matching federal funds, must be used to make the State's annual Medicaid payment to the State, to fund payments to hospitals made directly by the Department, to fund a portion of capitation payments to prepaid health plans attributable to hospital care, and to fund the nonfederal share of graduate medical education payments. (2020-88, s. 15.1(b).)

§ 108A-145: Reserved for future codification purposes.

§ 108A-146: Reserved for future codification purposes.

§ 108A-147: Reserved for future codification purposes.

§ 108A-148: Reserved for future codification purposes.

§ 108A-149: Reserved for future codification purposes.